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Docket No.: 105773.0132
(PATENT)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 17 2009

In re Patent of:
Dante E. PICCONE

OFFICE OF PETITIONS

Original Patent No.: 5,614,737

Patent No.: RE36770

Original Issue Date: March 25, 1997

Reissued: July 11, 2000

Application No.: 09/273,567

For: MOS-CONTROLLED HIGH-POWER
THYRISTOR

Filed: March 22, 1999

PETITION FOR RECONSIDERATION UNDER 37 C.F.R. § 1.378(B)

Attention: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The present Petition for Reconsideration is filed in response to the Decision on Petition mailed December 8, 2008 (hereinafter referred to as the "PTO Decision"). A copy of the Decision is attached hereto. The Petitioner respectfully requests reconsideration in light of the additional information provided herein, which shows that the Petitioner exercised the standard of care observed by a reasonable person in the conduct of that person's most important business and that the delay in paying the maintenance fee was therefore unavoidable. The undersigned hereby authorizes and requests the Office to charge the required petition fee of \$400.00 under 37 CFR 1.17(h) to Deposit Account No. 23-2185.

The PTO Decision denied the Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent, which was filed September 25, 2008 (hereinafter referred to as "Petition"). The PTO Decision was based on the following reasons: (1) that the Petition

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failed to attribute the error to any employee in particular; (2) that the Petition only had sparse details; (3) that a statement is required from all persons with direct knowledge; and (4) that the Petition does not explain why the firm hadn't noticed why the patent had been expired for six years. (See PTO Decision, pp. 4-5.) A detailed response is provided below. In addition, a Statement by Andrew Yost is being filed herewith in support of the present Petition for Reconsideration (hereinafter referred to as "Reconsideration Statement").

Issue 1: Failure to Identify a Particular Person

The PTO Decision indicates that the Petition failed to attribute the error to any employee in particular. (See PTO Decision, p. 4.) As stated in the current Reconsideration Statement, the firm's Docketing Manager at the time was Lynda Bynum-Cosby. (See Reconsideration Statement, ¶8.) Ms. Cosby had been with the firm for one year at that time, and had five years of previous docketing and supervisory experience, and an additional three years of experience as an IP Specialist. (See Reconsideration Statement, ¶8.) Accordingly, reliance on Ms. Cosby represented the exercise of due care.

Issue 2: Comprehensive and Exhaustive Evidence

The PTO Decision indicates that any renewed petition must be accompanied by comprehensive and exhaustive evidence that a clerical error resulted in the unavoidable delay in paying the 3.5-year maintenance fee. The Reconsideration Statement provides additional detail that supports the inevitable conclusion that the delay was due to clerical error, as well as that the delay was unavoidable as a result of that clerical error. (See Reconsideration Statement, ¶21.)

Issue 3: Statement Required from All Persons with Direct Knowledge

The PTO Decision indicates that a statement is required from employee charged with handling the payment of the maintenance fee, who has first-hand knowledge of the